

EXHIBIT 15

Haunschild, Philip

From: Haunschild, Philip
Sent: Friday, January 5, 2024 4:11 PM
To: Harris, Laura Ashley; Afinogenova, Alina; Sheh, Anthony; Elenberg, Falicia; Komis, Jihad; Genevant Team; 'Arbutus_MoFo'; Berl, David; Mahaffy, Shaun; Harber, Adam; Fletcher, Thomas; Ryen, Jessica; 'NTan@mofo.com'; Bolte, Erik; *jshaw@shawkeller.com; 'kkeller@shawkeller.com'; 'nhoeschen@shawkeller.com'; 'EWiener@mofo.com'; shaelyndawson@mofo.com; #KEModernaSpikevaxService; 'began@mnat.com'; 'tmurray@morrisnichols.com'; 'jblumenfeld@morrisnichols.com'; Carson, Patricia A.; Parrado, Alvaro
Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Laura,

We have discussed Plaintiffs' RFP No. 130 with Moderna for four months now, and at every step of the way Moderna has shifted its demands of Plaintiffs in what is a plain effort to delay any resolution. In September 2023, we discussed Plaintiffs' RFP No 130 on the parties' meet-and-confer, and Moderna requested that Plaintiffs investigate whether Plaintiffs would agree to produce the same scope of materials in response to this RFP that Plaintiffs have requested of Moderna. See Oct. 25, 2023 Letter from M. McLennan at 2. We did so, and we confirmed that Plaintiffs would agree to produce the identical scope of materials requested by RFP No. 130. See Nov. 16, 2023 Email from P. Haunschild. After nearly a month's delay, Moderna shifted to the vastly disproportionate demand that Plaintiffs produce all materials relating to essentially every LNP composition Plaintiffs or their predecessors made over their decades of history, in addition to materials mentioning Moderna or the Accused Product. Dec. 8, 2023 Email from A. Afinogenova. In response to new demands by Moderna, we then agreed to provide documents responsive to Moderna's RFP No. 22, requesting Plaintiffs' Board Materials regarding litigation against Moderna, in addition to those we had already agreed to provide. See Dec. 21, 2023 Email from P. Haunschild. Then yesterday, we confirmed the precise scope of Plaintiffs centralized repositories—notwithstanding Moderna's refusal to provide the same information—which Moderna indicated it needed to have in order to assess Plaintiffs' agreed scope of discovery. See Jan. 4, 2023 Email from P. Haunschild. Only now that Plaintiffs have informed Moderna that Plaintiffs will be producing documents responsive to these RFPs and that Arbutus and Genevant have repositories across the relevant time periods is Moderna shifting to demand materials from non-party *Roivant*—which Moderna has never requested or mentioned in our months-long correspondence. Further, for the first time, Moderna has limited its proposed scope to documents discussing the Asserted Patents and the lipid molar ratio of the Accused Product, which ignores the clear relevance of Moderna's Board's decisionmaking regarding the strategy, sales, and development of the Accused Product to damages. See Dec. 11, 2023 Email from P. Haunschild.

Moderna's continually shifting demands make clear that Moderna is not interested in reaching any good faith resolution with respect to these RFPs. We see no other option than to seek the Court's assistance in obtaining this relevant discovery, and intend to do so.

Thank you,

Philip N. Haunschild
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From: Harris, Laura Ashley <lauraashley.harris@kirkland.com>
Sent: Friday, January 5, 2024 10:06 AM
To: Haunschild, Philip <phaunschild@wc.com>; Afinogenova, Alina <alina.afinogenova@kirkland.com>; Sheh, Anthony

<ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

Thank you for your confirmation regarding Plaintiffs' document storage and the scope of Board documents Plaintiffs intend to search and produce.

Provided that Genevant, Arbutus, and Roivant are willing to search for and produce non-privileged board materials referring to the Asserted Patents and the lipid molar ratio of the Accused Product, Moderna is willing to search for and produce non-privileged Board documents which reference lipid molar ratios in the Accused Product or refer to the Asserted Patents. We hope this resolves your concerns and avoids any need to burden the Court.

Moderna would also like Plaintiffs' agreement to allow for relevance redactions for the Board materials that are produced (e.g., to redact everything other than references to the scope described above). Due to the sensitivity of Board materials, we hope you can appreciate the need for such a request.

Best,
Laura

Laura Ashley Harris

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Thursday, January 4, 2024 11:24 AM

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Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

We continue to be puzzled by Moderna's refusal to answer a simple question about what it will produce. Plaintiffs have agreed to search for and produce the identical scope of documents as what we are seeking from Moderna. How those documents are maintained simply is not relevant to any issue other than Moderna's apparent wish to delay Plaintiffs from seeking relief. Nevertheless, we confirm that Plaintiffs have centralized repositories of Board materials dating back to 2013, which contain final minutes and materials provided to the Board, and will search for and produce non-privileged documents responsive to the scope of Plaintiffs' RFP No. 130 and Moderna's RFP No. 22, from those repositories. If Moderna does not confirm by COB today that it will search for and produce the documents responsive to RFP No. 130, we will be moving the Court.

Thank you,

Philip N. Haunschild

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From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Thursday, January 4, 2024 11:41 AM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

The scope of Plaintiffs' repositories is directly relevant to your claims that Plaintiffs will "provide an *identical* scope of discovery." Dec. 20 & 21 emails. While we appreciate that "Plaintiffs can confirm that they have documents responsive to these requests," such a vague response to three very specific questions posed in our December 20 email provides little comfort to Moderna. To be clear, Moderna is not refusing to provide any Board of Directors materials (in addition to those incidentally found in custodial files) and continues to believe a compromise is possible. We would appreciate an answer to the questions we posed below so that the parties can productively move forward in reaching that compromise without needlessly burdening the Court.

Thank you,

Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Wednesday, January 3, 2024 9:18 AM

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Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

We do not see how the scope of Plaintiffs' repositories, or the burden that Plaintiffs have agreed to undertake, has any bearing whatsoever on the relevance of Moderna's documents or the burden to Moderna in producing its own Board materials. Plaintiffs have agreed to produce documents responsive to the scope of Plaintiffs' own RFP No. 130, and Moderna's RFP No. 22, if Moderna agrees to produce documents responsive to Plaintiffs' RFP No. 130. Though Moderna itself has consistently refused to provide information about its own document searches, Plaintiffs can confirm that they have documents responsive to these requests.

We have sought Moderna's simple confirmation that it will search for and produce documents responsive to RFP No. 130 for five months now. Moderna's transparent effort at delay has greatly prejudiced Plaintiffs. Please confirm by noon tomorrow that Moderna will produce its Board materials responsive to Plaintiffs' RFP No. 130, or the parties are in fact at an impasse and we will be forced to raise this dispute with the Court.

Thank you,

Philip N. Haunschild

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From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Friday, December 22, 2023 3:58 PM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoesch@shawkeller.com' <nhoesch@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com <shaelyndawson@mofo.com>; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

Your position is not abundantly clear, which is precisely why we have raised the questions in our December 20 email, to which you continue to refuse to provide a response. Put plainly, we need confirmation that Plaintiffs actually possess the full scope of materials Plaintiffs have purportedly “agreed to provide.” Throughout discovery in this case, Plaintiffs have pointed to the fact that Plaintiffs do not maintain centralized non-custodial repositories—including even centralized repositories of regulatory material—as a reason either not to collect certain categories of documents or why a collection of certain materials will be unduly burdensome. You can therefore appreciate why Moderna now needs assurances that both Plaintiffs actually maintain a repository from which they will collect Board of Directors materials and information on the time period during which materials have been maintained in said repositories. Once Moderna receives that confirmation, we hope that the parties can engage in a productive discussion to reach a compromise as to a reasonable scope of materials for collection and production.

We reiterate that we do not believe that the parties are at an impasse and continue to believe there is a path forward without needlessly burdening the Court. Should Plaintiffs nonetheless choose to prematurely move on this issue, Moderna reserves all rights.

Regards,
Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Thursday, December 21, 2023 11:30 PM

To: Afinogenova, Alina <alina.afinogenova@kirkland.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

Our position is abundantly clear that Plaintiffs are agreeing to provide an identical scope of discovery to that which Plaintiffs have requested Moderna to provide. And your email still does not point to a request where Moderna has sought Plaintiffs' board materials beyond those discussing the current litigation. To the extent there is any confusion, we confirm that we will conduct a reasonable investigation to determine whether Plaintiffs have any non-privileged board materials responsive to Moderna's RFP No. 22, and produce such non-privileged materials to the extent they exist.

We have been asking Moderna for months to confirm that it is producing the documents sought by RFP 130, and your email—yet again—refuses to answer. Moderna cannot prevent Plaintiffs from seeking relief by continually stonewalling

and then using its own obstruction to declare unilaterally that the dispute is not ripe. Please confirm by 4:00 PM tomorrow, December 22, that Moderna will be providing its board materials responsive to the full scope of Plaintiffs' RFP No. 130, otherwise we understand the parties to remain at an impasse based on your email, and Plaintiffs will proceed accordingly.

Thank you,

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From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Wednesday, December 20, 2023 4:56 PM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

To be clear, we are not avoiding answering questions about your discovery request. We are merely trying to understand the proposal in your November 16 email to determine if there is room for compromise. As you acknowledge in your email, Moderna's position has always been that any agreement to produce Board of Directors materials should be reciprocal. As you've pointed out, it is "typical" for publicly traded companies to maintain a centralized, non-custodial repository of Board of Directors materials. We are therefore trying to confirm that this is true of Arbutus and what the parameters of this repository are. With respect to Genevant, we have gotten no confirmation that Genevant even has a Board of Directors, let alone a repository of the materials being discussed. We have now asked you to fill in these blanks as we try to assess Plaintiffs' position.

While Plaintiffs may have "agreed that Plaintiffs will provide an identical scope of discovery responsive to Plaintiffs' RFP No. 130," Plaintiffs have not been consistent in their representations, which is precisely what prompted our questions earlier today. In Plaintiffs' October 9 letter, Plaintiffs merely stated that they "will investigate whether Plaintiffs have any non-privileged final Board minutes and materials provided to Plaintiffs' Board of Directors, or any committee of such Board." Oct. 9 Sheh letter at 2. Then on November 16, you "confirmed" that Plaintiffs will produce such materials, without ever confirming whether your investigation identified any such materials in Plaintiffs' possession, custody, or control, and if so, whether that is true of both Plaintiffs. Finally, in your December 11 email, you again do not confirm whether such materials exist, stating only that "Plaintiffs have offered to conduct a separate noncustodial collection of board materials." We also note that, as you acknowledge, Moderna has at least one RFP directed to Plaintiffs' Board of Directors materials that may not be fully covered by Plaintiffs' offer, which is narrowly circumscribed to materials relating to the Accused Product. It would be most reasonable to address all of the Requests directed to this set of materials at once, which is precisely what we are trying to do.

We therefore again reiterate our need for additional information to be able to fully assess the parties' respective positions on this issue. We would appreciate an answer to our questions. We do not believe it is proper for Plaintiffs to

rush to the Court on this issue when there might still be room for compromise. We remain hopeful that the parties can reach a resolution without burdening the Court.

Thank you,
Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Wednesday, December 20, 2023 12:26 PM

To: Afinogenova, Alina <alina.afinogenova@kirkland.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com <shaelyndawson@mofo.com>; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

If Moderna has an issue with our RFP responses, it is welcome to raise that, though we note that Moderna has not even served a document request for the materials that it is requesting from Plaintiffs. See Moderna RFP No. 22 (requesting board materials *related to the institution of this action*). Nevertheless, we have already agreed that Plaintiffs will provide an identical scope of discovery responsive to Plaintiffs' RFP No. 130. See Nov. 16 Email below. It is not proper for Moderna repeatedly to avoid answering our questions about a specific discovery request we have served. Plaintiffs are prejudiced by Moderna's refusal to provide this discovery in response to this request that Moderna has had for more than four months. If Moderna does not agree by COB today to produce its Board Materials in response to Plaintiffs RFP No. 130, we intend to raise this deficiency with the Court and note Moderna's refusal to answer our questions about its alleged burden.

Thank you,

Philip N. Haunschild

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From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Wednesday, December 20, 2023 11:06 AM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo'

<Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoesch@shawkeller.com' <nhoesch@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

As stated in our previous email, we are considering Plaintiffs' position. For Moderna to better understand what Plaintiffs are proposing, please confirm (1) that both Arbutus and Genevant each have centralized repositories of Board materials, (2) what types of documents those repositories contain (e.g. whether each entity's centralized repository houses final agendas and/or minutes of its board meetings and the materials that are provided to or reviewed by its Board of Directors), and (3) what time period do the materials contained in each Plaintiffs' centralized repository cover.

We are trying to work with Plaintiffs to arrive at a workable compromise and do not agree that the parties have reached an impasse on this issue.

Thank you,
Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Tuesday, December 19, 2023 2:20 PM

To: Afinogenova, Alina <alina.afinogenova@kirkland.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoesch@shawkeller.com' <nhoesch@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

Please confirm by COB Wednesday, December 20, that Moderna will be providing its Board Materials in response to Plaintiffs RFP No. 130, or we understand the parties to be at an impasse.

Thank you,

Philip N. Haunschild

Associate | Williams and Connolly LLP

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From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Wednesday, December 13, 2023 5:57 PM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Philip,

We are considering your email and will respond in due course.

Thank you,

Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>

Sent: Monday, December 11, 2023 9:00 PM

To: Afinogenova, Alina <alina.afinogenova@kirkland.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Plaintiffs' RFP No. 130

Alina,

Moderna's proposal is plainly insufficient.

First, Moderna's limitation to produce only custodial documents is unjustified for a category of documents that is typically maintained in a centralized, non-custodial repository for public companies like Moderna. In addition, none of Moderna's proposed custodians is on the Board of Directors, making this approach doubly insufficient. If Moderna's position is that it does not have a repository or Board Materials, please confirm that in writing. Otherwise, we expect that Moderna will search for responsive documents in its repository of Board Materials and not by picking through whatever documents happen to be in one of its custodian's emails.

Second, Plaintiffs have requested all documents created, prepared, and/or reviewed for or by Moderna's Board of Directors, or any committee of such Board, *related to the Accused Product*. Moderna's limitation to produce only documents that are responsive to the narrowly defined categories that Moderna limited to those documents that Moderna has already agreed to produce would omit plainly relevant documents that are provided to the Board of Directors, including e.g., the damages to which Plaintiffs are entitled, Moderna's willful infringement, and/or Moderna's infringement of the patents. Such documents are routinely ordered to be produced in cases like this one. *See, e.g. Vasudevan Software, Inc. v. MicroStrategy Inc.*, No. 11-CV-06637-RS-PSG, 2013 WL 597655, at *1 (N.D. Cal. Feb. 15, 2013) (finding "board minutes relating to the products VSI accuses as infringing . . . fall within the broad scope of relevancy under Rule 26" and ordering that they must be produced); *Unilin Beheer B.V. v. NSL Trading Corp.*, No. CV 14-2210, 2015 WL 12698382, at *9 (C.D. Cal. Feb. 27, 2015) (ordering defendants to conduct reasonable investigation for board of directors meeting minutes and other financial and corporate structure documents).

Moderna's efforts to condition its own production of Board materials to increasingly broad requests for Plaintiffs' documents are improper, and inconsistent with Moderna's prior statements in its correspondence and on the parties' meet-and-confer. *See* Oct. 25, 2023 Letter from M. McLennan at 2 ("[W]e understand Plaintiffs are still investigating whether to search for and produce non-privileged final Board minutes and materials provided to Plaintiffs' Board of Directors, or any committee of such Board, concerning Moderna's Accused Product."). In any event, Plaintiffs are not withholding non-privileged board materials on the basis that are otherwise responsive to the categories of documents that Plaintiffs have agreed to produce, and Plaintiffs have offered to conduct a separate noncustodial collection of board materials, consistent with the scope of Plaintiffs' RFP No. 130, as Moderna requested on the parties' September 15, 2023 meet-and-confer, provided Moderna agrees to do the same. *See* Oct. 9, 2023 Letter from A. Sheh.

Moderna has had our request for these Board materials for over four months, and the parties met and conferred regarding this RFP on September 15. Please confirm by Wednesday, December 13, that Moderna will be providing documents responsive to the full scope of this RFP, including by agreeing to produce all documents created, prepared, and/or reviewed for or by Moderna's Board of Directors, or any committee of such Board, related to the Accused Product. To the extent that Moderna will not produce documents responsive to the full scope of this RFP, please confirm by December 13 whether Moderna has centralized repositories of final minutes of its board meetings or the materials that are provided to or reviewed by its Board of Directors. Plaintiffs are requesting a discrete set of highly relevant documents, and we will seek the Court's intervention if Moderna continues its refusal to produce them.

Thank you,

Philip N. Haunschild
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 202-434-5979 | phaunschild@wc.com | www.wc.com

From: Afinogenova, Alina <alina.afinogenova@kirkland.com>

Sent: Friday, December 8, 2023 6:26 PM

To: Haunschild, Philip <phaunschild@wc.com>; Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 - Correspondence

Counsel,

Moderna will agree to produce non-privileged Board of Directors materials that are found in Moderna's custodial collections, are otherwise responsive to what Moderna has already agreed to produce (e.g. LNP development of the Accused Product) and hit upon Moderna's search terms, if Plaintiffs will produce Plaintiffs' Board of Directors materials relating to Plaintiffs' own Covered Products, LNP technology or the patents-in-suit, in addition to Moderna and the Accused Product. Plaintiffs' attempt to unduly narrow the scope of their production to Moderna's COVID-19 vaccine improperly excludes highly relevant materials.

Best regards,
Alina

Alina Afinogenova

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From: Haunschild, Philip <phaunschild@wc.com>
Sent: Thursday, November 16, 2023 5:00 PM
To: Sheh, Anthony <ASheh@wc.com>; Elenberg, Falcia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com; #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>; Parrado, Alvaro <alvaro.parrado@kirkland.com>

Subject: RE: Arbutus v. Moderna, 1-22-cv-00252 -Correspondence

Counsel,

Regarding Plaintiffs' RFP No. 130, we understand that Moderna has conditioned its agreement to produce its own board materials responsive to this RFP on Plaintiffs agreeing to provide their own board materials related to the Accused Product. Plaintiffs confirm that they will produce all non-privileged documents and communications created, prepared,

and/or reviewed for or by Plaintiffs' Board of Directors, or any committee of such Board, related to the Accused Product, including final meeting minutes and presentations and other materials provided to the Board, provided that Moderna agrees to provide its own board materials related to the Accused Product, responsive to the full scope of this Request. These documents are plainly relevant to issues in dispute in this case. Please confirm Moderna's agreement by November 20 so that we may promptly resolve this dispute, if necessary.

Thank you,

Philip N. Haunschild

Associate | Williams and Connolly LLP

680 Maine Avenue SW, Washington, DC 20024

202-434-5979 phaunschild@wc.com | www.wc.com

From: Parrado, Alvaro <alvaro.parrado@kirkland.com>

Sent: Wednesday, October 25, 2023 2:34 PM

To: Sheh, Anthony <ASheh@wc.com>; Elenberg, Falicia <felenberg@wc.com>; Komis, Jihad <JKomis@wc.com>; Genevant Team <GenevantTeam@wc.com>; 'Arbutus_MoFo' <Arbutus_MoFo@mofo.com>; Berl, David <DBerl@wc.com>; Mahaffy, Shaun <SMahaffy@wc.com>; Harber, Adam <AHarber@wc.com>; Fletcher, Thomas <TFletcher@wc.com>; Ryen, Jessica <JRyen@wc.com>; 'NTan@mofo.com' <NTan@mofo.com>; Bolte, Erik <ebolte@wc.com>; *jshaw@shawkeller.com <jshaw@shawkeller.com>; 'kkeller@shawkeller.com' <kkeller@shawkeller.com>; 'nhoeschen@shawkeller.com' <nhoeschen@shawkeller.com>; 'EWiener@mofo.com' <EWiener@mofo.com>; shaelyndawson@mofo.com

Cc: #KEModernaSpikevaxService <KEModernaSpikevaxService@kirkland.com>; 'began@mnat.com' <began@mnat.com>; 'tmurray@morrisnichols.com' <tmurray@morrisnichols.com>; 'jblumenfeld@morrisnichols.com' <jblumenfeld@morrisnichols.com>; Carson, Patricia A. <patricia.carson@kirkland.com>

Subject: Arbutus v. Moderna, 1-22-cv-00252 -Correspondence

Counsel,

Please see the attached case correspondence.

Thank you,

Alvaro R. Parrado

Senior Paralegal | Intellectual Property

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